



**NINTH AMENDED ADMINISTRATIVE ORDER,
NINTH JUDICIAL DISTRICT**

Pursuant to the authority vested in me, in accordance with the recent operational protocols issued by the Chief Administrative Judge for the trial courts of the Unified Court System and after consultation with the Chief Administrative Judge and the Deputy Chief Administrative Judge and

WHEREAS, New York State and the nation are now in the midst of an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS, COVID-19 is known to be a highly infectious disease, and there is much community concern that large gatherings of people can result in greater public exposure to possible contagion or "community spread"; and

WHEREAS, on a daily basis, in courts across the State, hundreds if not thousands of people representing a broad cross-section of the community gather to conduct business in large groups in close proximity to one another; and

WHEREAS the Courts of the Ninth Judicial District commenced Phase I of the Return to In-Person Operations Plan ("RIOP") on May 27, 2020, Phase II of the RIOP on June 11, 2020, Phase III of the RIOP on June 25, 2020, Phase IV of the RIOP on July 9, 2020 and Phase 4.1 of the RIOP on August 14, 2020 (**with the updated RIOP to be effective October 19, 2020**) (Attachment - Highlights and Summaries); it is hereby

ORDERED that effective immediately the following rules be put into effect in the Ninth Judicial District until rescinded.

As hereinafter used, "Assigned Judge" shall refer to the judge assigned to hear the case on and before March 16, 2020.

A. General matters and matters applicable to more than one case type

- 1. Until further Administrative Order or Executive Order, eviction matters may proceed pursuant to the protocol established in the Memorandum from Chief Administrative Judge Lawrence Marks dated October 9, 2020 and pursuant to Administrative Order AO/231/20. Further reference is made to Executive Order 202.67 signed by the Governor on October 4, 2020 and the CDC Agency Order filed on September 1, 2020.**

2. Until further Administrative order or Executive Order, Default judgments shall not be granted where, pursuant to CPLR 3215, the default occurred after March 16, 2020. **Notwithstanding the foregoing, a judge presiding over a matter wherein a party has defaulted may grant a default judgment where, after inquiry, the judge determines that (a) the defaulting party has received actual notice of the action or proceeding; (b) the failure of the defaulting party to respond to the action or proceeding is not due to the COVID-19 pandemic; and (c) the granting of the default judgment is not contrary to any statute, Executive Order or Administrative Order. Note: Executive Order 202.67 extends the toll on statutes of limitations (first set forth in EO 202.8 on March 20, 2020 and later extended) through November 3, 2020. Default judgments may be governed by the suspension of "any specific time limit for the commencement, filing or service of any legal action, notice, motion or other process or proceeding, as described by the procedural laws of the state."** A judgment adverse to the party seeking relief (plaintiff, petitioner, moving party, etc.) may be granted in the event that party fails to proceed with the action or appear in court.
3. All Family Court and all County Court Judges are cross-assigned to the County and Family Courts in all counties of the District. All City Court Judges are cross assigned to all County, City, Town and Village Courts in the County of their residence and any adjoining County.
4. The Return to In-Person Operations Plan ("RIOP") (Phase I) implemented on May 27, 2020, the RIOP (Phase II) implemented on June 11, 2020, the RIOP (Phase III) implemented on June 25, 2020, the RIOP (Phase IV) implemented on July 9, 2020, the RIOP (Phase 4.1) implemented on August 14, 2020, **(with the updated RIOP to be effective October 19, 2020)** and any RIOPs for any subsequent phases are incorporated herein and all provisions of this Administrative Order shall be read in conjunction with the RIOP.
5. The Virtual Courtroom Protocol enacted by Ninth Judicial District Administrative Order effective April 6, 2020, to the extent not inconsistent with the RIOP, remains in full force and effect and all provisions of this Administrative Order shall be read in conjunction with the Virtual Courtroom Protocol and any subsequent amendments thereto. A phased migration to **Microsoft Teams from Skype for Business will commence in the state paid courts October 5, 2020 (Term 11) and on November 2, 2020 (Term 12) in the Town and Village Courts.**
6. **Occupancy of all courtrooms shall be limited to the lesser of 25 people or 50% of the posted room occupancy per code, 25% of the posted room occupancy for Town and Village Courts. Notwithstanding the above, in all instances the maximum occupancy of any space in the courthouse shall be limited to ½ the posted room occupancy. A Chief Clerk or judge may apply to the Administrative Judge for an exception for a specific courtroom or court proceeding. The chief clerk must be able to demonstrate that 1) the proposed occupancy limit does not exceed 50% of the posted room occupancy (25% for Town and Village Courts) and that 2) social distancing can be maintained with the proposed occupancy limit.**

7. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
8. All Staff shall report to the courthouse as determined by his/her supervisor. All Judges and Chambers' staff should report to the courthouse. Any requests for exemptions must be discussed with the Administrative Judge.
9. All Temporary Orders of Protection issued in any criminal or civil matter that has expired or is due to expire on or after March 19, 2020 "shall be extended under the same terms and conditions until the date the matter is re-calendared, unless the order is sooner terminated or modified by a judge or justice of the court that issued the order" pursuant to Administrative Order AO/73/20 signed by the Chief Administrative Judge of the Courts on March 19, 2020.
10. The Ninth Judicial District Administrative Order signed on May 28, 2020 regarding vouchers was rescinded June 9, 2020. All vouchers must be individually approved by the Assigned Judge.
11. All filings shall be pursuant to the Administrative orders signed by the Chief Administrative Judge of the Courts (AO/111/2020, AO/114/20, AO/115/20, AO/149/20, AO/209A/20 and any amendments thereto).
12. **The Judges should encourage or require, to the greatest extent possible, the use of virtual technology in matters that occur off court premises (depositions, discovery, etc.). Such language should be included in any scheduling orders.**

B. Supreme Civil

1. All Mental Hygiene Law proceedings in which a party is confined to a hospital or other facility shall be conducted with appearances by means of remote audiovisual technology or telephone pursuant to Administrative Order AO/72/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020.
2. Until further Administrative Order or Executive Order. Foreclosure matters may proceed pursuant to the protocol established in the Memorandum from Chief Administrative Judge Lawrence Marks dated July 24, 2020 and pursuant to Administrative Order AO/157/20 dated July 23, 2020. **Further reference is made to Executive Order 202.28 signed by the Governor on May 7, 2020, Executive Order 202.64 signed by the Governor on September 18, 2020, Executive Order 202.67 signed by the Governor on October 4, 2020, and the Laws of New York 2020, Chapters 112 and 126.**
3. **Jury Trials shall be held according to the schedule established in the Updated RIOP to be effective October 19, 2020 with scheduling as approved by the Administrative Judge.**
4. **The Centralized Parts in Rockland and Putnam Counties shall be available for Essential Matters where a Town or Village Court is unavailable due to COVID-19.**

C. Superior Court Criminal Cases

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders. The issuance of the new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order,

whichever is later. For Defendants not in custody, there shall be no adjournment of a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that greater than 30 days.

2. Grand Juries shall be impaneled in each County pursuant to Administrative Order 130a/2020 signed on June 30, 2020.
3. The Accessible Magistrate procedure for (for Adolescent Offenders and Juvenile Offenders) currently in place shall continue. **The Youth Part arraignment procedure established in the Virtual Courtroom Protocol is modified only as follows: The Youth Part Judge, or designated back-up Youth Part Judge, shall preside over Youth Part proceedings.**
4. **Jury Trials shall be held according to the schedule established in the Updated RIOP to be effective October 19, 2020 with scheduling as approved by the Administrative Judge.**
5. **Each County, in consultation with the Sheriff/Commissioner of Corrections, shall develop a plan for the imposition of intermittent sentences.**
6. **The Centralized Parts in Rockland and Putnam Counties shall be available for Essential Matters where a Town or Village Court is unavailable due to COVID-19.**

D. Treatment Courts/OSP

1. Treatment courts and Opioid Stabilization Parts will be handled by the Assigned Judge and reference is made to Paragraph (C)(2)(f) of the **Summary of the Updated RIOP to be effective October 19, 2020.**
2. Virtual conferences are encouraged (reference is made to Administrative Order AO/87/20 of Chief Administrative Judge Lawrence Marks dated May 1, 2020, "Problem-solving courts may conduct virtual court conferences with counsel, court staff, service providers, and, where practicable, clients").

E. Family Court

1. All matters shall be addressed by the Assigned Judge and appropriately scheduled. Virtual calendars are encouraged.
2. Judges should ensure that all Permanency Planning Hearings are timely scheduled and heard pursuant to existing Federal or State Law. Difficulties in scheduling the hearings should immediately be brought to the attention of the supervising judge.
3. All cases involving a youth that is currently in detention shall be reviewed by the Assigned Judge, at a minimum, at least once every fourteen days.
4. No new S (PINS), F (Support), P (Paternity), or U (UIFSA) warrants may be issued unless approved by the Supervising Judge. Only D (Juvenile Delinquent) warrants may be issued in the discretion of the Assigned Judge.

F. Surrogate's Court

All matters shall be calendared consistent with all Administrative Orders and Executive Orders at the discretion of the Presiding Surrogate. Virtual calendars are encouraged.

G. City Court

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and

Administrative Orders. The issuance of the new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order, whichever is later. For Defendants not in custody, there shall be no adjournment of a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that greater than 30 days.

2. The Centralized part shall be available for essential matters, only if the Town and Village Court is unavailable due to COVID-19.

H. Town and Village Courts

Criminal Matters:

1. Judges may conduct arraignments in-person or virtually pursuant to approved virtual arraignment plans.
2. Judges may conduct in person preliminary hearings.
3. Judges may conduct Bench Trials and Hearings. These matters shall be scheduled one at a time.
4. Judge may conduct in-person arraignments on Appearance Tickets and Criminal Summons Returns. **(no date restriction).**
5. Judges may hold in-person pleas and sentences
6. Judges may hold in-person appearances regarding appeals.
7. Judges may hold in-person motion argument
8. Conferences shall be held virtually/telephonically, plea affidavits are permitted.
9. In-person jury trials may be conducted **ONLY UPON THE CONSENT OF THE DISTRICT ADMINISTRATIVE JUDGE.**


Civil Matters:

1. Judges may conduct Bench Trials and Hearings, including Small Claims matters and Town Code Violations. These matters shall be scheduled one at a time.
2. Landlord/Tenant and Eviction matters may proceed in accordance with Judge Marks' AO/231/20. Lockouts shall be brought to the Town and Village Court **UNLESS** the Town/Village Court is unavailable then Lockouts shall be brought to the Centralized part.
3. In-person jury trials may be conducted **ONLY UPON THE CONSENT OF THE DISTRICT ADMINISTRATIVE JUDGE**

Vehicle and Traffic Matters:

1. Judges may conduct in-person arraignments on VTL Ticket Returns, **(no date restriction).**

Dated: October 19, 2020
White Plains, New York



Hon. Kathie E Davidson
Administrative Judge
Ninth Judicial District

Distribution: HON. VITO CARUSO